


Quid Novi



MAR 31 1987

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MCGILL UNIVERSITY FACULTY OF LAW
UNIVERSITÉ MCGILL FACULTE DE DROIT

March 25, 1987
Le 25 mars 1987

SKIT NITE KNOCKS 'EM DEAD!

The envelope please...

And the winner for best performance by a law student in a supporting role is Jason Mogg for his rivetting portrayal of Prof. Baker in "Faculty Feud". He also did a convincing Crépeau. Indeed, the "Faculty Fashion Show" was probably the funniest skit of the night. Skit Nite, a night when men are men and...well, you were there.

Speaking of men, did you catch Joe Starnino? That slimeball got a date with Alix D'Angelejan-Chatillon. As the couple left together she was overheard to say, "Oh Joe, I love it when you do Julius. I can pretend you're not there." But there he was, along with a bunch of other students: Cucci as Spock, Roth as Scott. Jay as Haanappel remembered his lines this year in a stellar performance. Poor Paul Lalonde couldn't get the Rod off his face all night. But gee, doesn't Bob Higgins look hot in a dress?!

And where would all this levity have been if not woven tightly together by the raunchy rock of the Flaming Wabassos, Ken "King of Feedback" Aboud, Mark "Jessup" Roppel, Rockin' Robbie Campbell and Paul "Shades" Adams. André

Libre-échange:

Quelques Considérations

par François Cossette

En ces temps plutôt mornes pour la cause du libre-échange, le sénateur républicain du Rhode Island John Chaffee, était récemment de passage à Montréal afin de prêter main-forte à son président et rassurer les canadiens, inquiets face à la montée irrésistible du protectionnisme américain, alimenté sans relâche par l'énorme appétit électoraliste des démocrates, maintenant majoritaires dans les deux chambres. Le sénateur Chaffee n'était cependant pas venu lâcher une bombe sur Montréal,

tout au plus nous a-t-il livré une version rechauffée des grands thèmes de la politique républicaine se refusant obstinément à aborder les thèmes litigieux de la négociation.

A son avis, les négociateurs Reisman et Murphy devraient compléter la ronde finale de pourparlers au mois d'août prochain, après quoi l'entente obtenue sera soumise à une procédure spéciale du congrès appelée "fast track procedure"; en verty de celle-ci, la proposition n'est soumise au

Cont'd on p.4

Chaker turned in the finest vocal performance of the evening with a Hall and Oates tune, *Everytime You Go Away*. Taras Kulish, accompanied by Diana Young, sang his stirring interpretation of the Smiths haunting elegy *The Old House*. And Marty Boodman got everybody clapping to his consumer blues before he was joined by the Dean for a long overdue encore of "Mens Rea for Love". Everybody sang. Rod got a pie in the face.

As for Brad Condon, you'd

think he's been at this shtick all his life. Greased back and grease painted, your host for the evening warmed up the crowd with impressions of Sklaw, Scott, Haanappel and Brierley. From then on, it was good music and crafty satire, not too tart, not too sweet. Chief organizers Ken Aboud and Kevin Kyte, Directors Teresa Scassa and Cheryl Buckley and all the helpers, writers and performers are to be commended for their superbly rewarded efforts. As

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ANNOUNCEMENTS

Summer Legal Aid

The Legal Aid Clinic is looking for students to volunteer a few hours of time over the summer. This is a great way to discover what the practice of law is really like. See Dianne George.

Our summer hours are 10:00 a.m. to 4:00 p.m.

Deadline for Submission of Essays and Term Papers

Please note that **all** essays and term papers are due at the Student Affairs Office by Friday, April 10, 5:00 p.m.

Extensions are not granted without prior permission from the Associate Dean.

Important Meeting for: All returning students 1987-88

All first year students 1986-87

Subject: Early course registration and selection
Date: Wednesday, April 1
Time: 12:00 Noon
Place: Moot Court

- Early Course Registration has been introduced to the Faculty of Law for all returning students. This implies that eligible students will no longer have to register in person in September. Mrs. Lederer will explain the details of Early Course Registration.

- Professor Haanappel will address the issue of course selection for students entering

second year.
Please make every effort to attend.

Conference

Organized by/ The International Law Association/Canadian Branch, in cooperation with la Société québécoise de droit international.

Organisé par/ L'Association de droit international/section canadienne en collaboration avec la Société québécoise de droit international.

Date/ Thursday, March 26, 1987/
Jeudi, 27 mars 1987

Hour/Heure 5:30 pm/
17h30

Location/Endroit Faculty of Law/Faculté de droit McGill University, Chancellor Day Hall, 3644 Peel, Room/Pièce 101.

Speaker/ Professor Anthony Carty
Conférencier Glasgow University/
Université de Glasgow

Topic/Titre The Nicaragua Case and the sources of International Law:
A Decision Correct for the wrong reason

Information Louise Morel - 392-4632

L.S.A. Bookstore

Last day to purchase or to return books: Thursday, 26 March 1987

Dernier jour pour acheter ou pour retourner vos livres: jeudi, le 26 mars 1987.

L. Hanslin please come to pick up your refund for Constitutional Law if you have not already done so.

Summer Research Position Available

Nature of job: Research in areas of Property and Torts related to agriculture; update of Land Use Planning and Landlord & Tenant Casebooks.

Eligibility: The applicant must have taken Common Law Property and Torts; courses in Land Use Planning and Landlord & Tenant would be helpful, but are not required.

For more information check the notice boards or see Professor Jane Glenn.

Employment Opportunity

The McGill Campus Legal Aid Clinic invites applications for summer employment from non-graduating law students with computer-programming skills. The successful candidate will be experienced in systems analysis and data processing. Bilingualism and knowledge of MCLAC operations are assets.

All qualified applicants will be contacted by the end of April for the purpose of scheduling interviews. Applications including relevant experience should be mailed or delivered to:

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Salvadorean Refugees In Limbo

by Terry Pether

Liesbeth Vandenbosch (LL.B. II) spent last summer working with the National Centre for Immigrants Rights in Los Angeles. The McGill International Law Society invited her to speak about her work with that legal support network relating to the case of *Orantes v. Meese*. *Orantes v. Meese* is a class action suit launched by Salvadorean refugees seeking to enjoin the U.S. Immigration and Naturalization Service (INS) from engaging in tactics that deprive detainees of deportation hearings.

Why are Salvadoreans fleeing their homeland in the first place? Vandenbosch indicated that there have been 60 000 people killed in El Salvador by military and security forces since that country's civil war pitting government troops

against guerillas began in 1979. Most of the dead were unarmed peasants from the rural conflict zones, slaughtered in air raids and village round-ups. As innocent people die in the countryside, in the cities, forty to fifty teachers, priests, nuns, journalists, union activists and human rights activists are tortured and murdered by ununiformed death squads each month (that's down from 900/month in 1983). Added to these atrocities are numerous civilian disappearances. The bodies are never found.

Proceeding from the ol' East-West line, the United States has, not surprisingly, played a role in all the mess. Admittedly stating the obvious, Vandenbosch pointed out that

the Reagan administration blames Soviets, Sandinistas and Cubans for the guerilla uprisings and the perceived spread of communism. They send guns and weapons and Green Berets to help the groups doing the killing. There is even a training camp for Salvadorean soldiers in Georgia.

This is the situation that refugees are fleeing. Internal refugees from outlying areas have crammed into San Salvador. And five percent of El Salvador's population has been displaced to camps operated by the Catholic Church and human rights organizations. A million Salvadoreans have gone to the United States.

To reach the land of the free, refugees make their way to shantytowns that line the American-Mexican border. There they pay professional border crossers ("coyotes") to take them on foot or by van through secret routes to the United States. Many of the refugees, if they are not nabbed by Border Patrol officers right away, are later arrested by INS officers in, for example, raids on factories known to employ illegal aliens.

As detainees, the refugees are brought to the nearest district INS office. There they can either sign a voluntary departure form or hold out for a deportation hearing. Since the wait for a deportation hearing can last for two years, many refugees opt for the hearing and, if they are released, find jobs in the meantime. Still, when the time comes, an alien can be deported just for entering the U.S. illegally. As for the voluntary departure

forms, most that are signed are done so under coercion and even physical abuse. Consent is rarely fully informed.

The Refugee Act gives refugees the further option of applying for asylum. This legislation adopts the U.N. definition of refugee, thereby prohibiting the deportation of aliens who fear persecution at home because of their religious or political beliefs. Unfortunately, said Vandenbosch, the U.S. only considers Salvadoreans as economic refugees, not political refugees. Thus, Salvadorean detainees were not even informed of their rights under the Refugee Act until 1982.

In 1982, the *Orantes* case began in a District Court in California. The presiding judge took judicial notice of El Salvador's violent civil war and of the refugees' rights to apply for asylum. He also granted an injunction ordering the INS to facilitate the knowing and intelligent signing of voluntary departure forms and to advise refugees of their rights to deportation hearings and asylum. The injunction called for further safeguards such as rights to counsel, free phone

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Announcements Cont'd from p.2

The Directors
McGill Legal Aid Clinic
3480 McTavish St. Suite B-20
Montréal, Québec
H3A 1X9

The employment opportunity is contingent upon the approval of MCLAC's Challenge '87 grant submission to Employment and Immigration Canada.

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Editor-in-Chief Terry
Rédacteur-en-chef Pether

Associate Editor Normand
Rédacteur adjoint Perreault

Production Manager Joani
Directrice de gestion Tannenbaum

Staff/ Membres François Cossette
Andrew Orkin
Joseph Kary
Bettina Karpel
Teresa Scassa
Robert Tannenbaum
Jeanne Cadorette
Brad Condon

Quid Novi est une publication hebdomadaire assurée par les étudiants de la faculté de droit de l'université McGill, 3644 rue Peel, Montréal, H3A 1W9. La publication est rendue possible grâce à l'appui du bureau du doyen, ainsi que par le financement individuel des étudiants. Les opinions exprimées sont propres à l'auteur. Toute contribution n'est publiée qu'à la discrétion du comité de rédaction et doit indiquer l'auteur où son origine.

Libre-échange Cont'd from p.1

congrès que pour approbation ou rejet, aucun amendement ne pouvant être proposé. Cette procédure, utilisée pour les traités internationaux, a l'avantage d'être rapide et de maintenir intact le contenu de l'entente négociée. Le temps constitue sans aucun doute la donnée fondamentale du dossier de part et d'autre; du côté américain, il est clair que le libre-échange est essentiellement rattaché à l'initiative personnelle du président Reagan et que la fin de son mandat (fort houleuse par ailleurs) approche à grands pas. Même chose dans le camp canadien où l'idée de faire une élection sur un thème aussi controversé n'est sûrement pas de nature à plaire aux conservateurs déjà blessés à l'aile. En effet aucun parti politique au cours de la jeune histoire canadienne n'a pu remporter une élection en prenant une politique de libéralisation commerciale. Même le grand Laurier mordit la poussière avec sa fameuse réciprocité, et cela, Brian Mulroney ne le sait que trop bien. Le temps presse donc dans les deux camps, de sorte qu'il est réaliste de croire à un projet d'entente pour l'automne.

Pourtant, l'abîme qui sépare canadiens et américains sur certaines questions semble impossible à franchir tant il s'attaque aux fondements mêmes des deux sociétés en présence. A ce niveau, deux points de divergence doivent retenir notre attention: le jeu de la politique monétaire et le rôle de l'état dans chacune des économies.

En ce qui concerne la politique monétaire, il est évident qu'on ne peut apprécier la valeur d'un

tarif douanier qu'en fonction de la valeur de chacune des monnaies utilisées dans le cour d'une transaction. Ainsi, un tarif douanier (américain) de 10% a peu d'effet sur l'exportateur canadien qui profite d'une unité monétaire de 30% dévaluée par rapport au dollar américain; ce dernier demeure extrêmement compétitif. Par contre, si les deux monnaies sont au pair, le tarif douanier de 10% reprend sa fonction, première de barrière tarifaire. Or nul ne peut prévoir l'évolution future des unités monétaires canadiennes et américaines. Force nous est d'admettre cependant, qu'un retour à la parité comme ce fût le cas dans les années 60 est possible. Le pacte de l'auto nous fournit à ce titre un exemple éloquent de l'influence des fluctuations monétaires sur les échanges d'un secteur donné. Peu profitable à l'Ontario lors de sa ratification au milieu des années 60 (puisque l'on vivait une époque de parité), il se transformait avec la dévaluation du dollar canadien, en une véritable mine d'or de sorte qu'aujourd'hui, l'Ontario est prête à tout pour le maintenir intact.

Or que nous réserve un éventuel traité libre-échangiste en matière de politique monétaire? Peut-on réellement parler de libre-marché sans une parité des monnaies? A notre avis cela n'est pas possible, du moins pas dans un contexte nord-américain. Cependant il faut bien se rendre compte que la conséquence la plus probable d'un alignement des monnaies sera la perte de contrôle du Canada sur la gestion de sa devise et, par extension, une diminution considérable des pouvoirs souverains du Canada sur son orientation économique. Imaginons par

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Salvadorean Refugees Cont'd from p.3

calls, Spanish instructions and release with bail pending hearings.

Last summer, when Vandenbosch worked on *Orantes*, the case was resubmitted before the same judge to determine whether a permanent injunction is warranted. INS officers are still up to their old tricks in new ways such as by refusing refugees pencils to write down lawyers' phone numbers for example. The situation, therefore, needs continued monitoring under force of law. The plaintiffs are also seeking further demands for better detention centres and a law library. A decision is to be rendered in June. Based on her impressions of the judge's sympathies and the effectiveness of refugees' testimony, Vandenbosch is confident that a permanent injunction will be awarded as long as the court can justify Salvadoreans as refugees. As it is, only two percent get asylum. But a recent case in the U.S. has held that to meet the "refugee" definition, an alien is not required to prove facts that he or she will be personally harmed, but only that he or she has a well-founded fear of persecution. Of course, said Vandenbosch, what is "well-founded" remains problematic.

So the fate of the Salvadorean refugee is uncertain. And that uncertainty has not been ameliorated, concluded Vandenbosch, by recent changes to Canadian immigration law whereby any refugee seeking access to Canada at a Canada-U.S. point of entry must return to the United States to await the outcome of his or her Canadian hearing. So much for the

government's claim that nothing has really changed. If the *Orantes* injunction is not extended, many Salvadorean refugees will be deported from the U.S. before they ever get the opportunity to start a new life here. And even if Canadians like Liesbeth Vandenbosch are doing their part to help Salvadorean refugees, Canada, like the United States, is not doing its part.

Skit Nite Cont'd from p.1

Reverend McCarthy said, "You must appreciate that without a good sense of humour you could easily be overpowered by the tragedy of life that the legal profession must attempt to sort out." It was especially gratifying to see Reverend McCarthy presented with a donation of \$7,000. All that money for such a good cause made the laughter more enriching.

As they left, I overheard G. Raphe and C. Lyon say "If Bachelor Number 3 is an animal, what does that make us?" If you missed "Saturday Night Live", you missed a date with Joe Cool and a whole cast of not-ready-for-primetime-players.

Libre-échange cont'd from p.4

exemple, les problèmes commerciaux qu'aurait causé un dollar canadien paritaire en ces temps de surévaluation de la devise américaine.

Le rôle de l'état dans l'économie canadienne consitue une autre cible privilégiée des négociateurs américains. Or cette fois, ils frappent de plein fouet la nature socio-économique d'un pays dénué d'un marché intérieur suffisant,

ne possédant pas de capitaux d'investissements aussi considérables que son gigantesque voisin, ne pouvant offrir des coûts de productions aussi bas que les états du "Sun Belt", et tenant fermement à maintenir des programmes sociaux qui reflètent la tendance "égalitariste" de son peuple. En d'autres termes, est-il possible d'élaborer un libre-échange valable sans modifier substantiellement la trame de fond du développement socio-économique de ce pays, considérant de surcroît, la contrainte de temps qui pèse sur les deux administrations en présence? La réponse à cette question ne devrait pas tarder à venir.

En conclusion nous en venons à l'évaluation suivante d'un possible libre-échange. D'une part, une série d'arguments milite en sa faveur: 1) n'éventuel retour à la parité des monnaies; 2) une réapparition féroce du protectionisme à Washington; 3) un réaménagement de notre structure industrielle dans le cadre d'une restructuration de l'économie mondiale (rationalisation, modernisation); 4) le développement d'une capacité de production accrue; 5) l'élimination des secteurs de notre économie maintenus artificiellement en vie . . . Par contre, le succès d'une telle opération n'est pas garantie et pourrait avoir un impact dramatique sur la propriété du capital autochtone. De plus, le prix à payer pour prendre le grand virage économique pourrait se révéler très lourd en termes de perte de souveraineté politique (les programmes sociaux) et économique (la politique monétaire). En somme on risque gros pour gagner gros dans le meilleur des scénarios.

Dear Abby Initio

Dear Abby Initio,

I feel like such a fool for writing to you. You have to realize that I don't do this often, but I'm so distressed.

Inter alia, I've become aware that I have started using latin maxims in ordinary speech. This is *a priori* disturbing. I know I should get professional help, but that requires money, and as you know, *nemo dat quad non habet*. *Non obstante*, law school is destroying my *animus*. I wish I could go back *ab initio*, but *non est possible*.

Do I have a hope of *restitutio in integrum* when I get out? I must know!

Signed,

Incognito.

Dear Cog,

The only consolation I can offer is that you are not alone. "Latin Maximization" affects a great percentage of both students and faculty. This condition is not to be confused with another distressing oral affliction known as "Profit Maximization". The latter is a more serious affliction that can cause a person's speech to become almost incomprehensible. There is no known cure. However, the Foundation of Benevolent University Classes Keeping Legal Education Yappey (F.B.U.C.K.L.E.Y.) is trying to relieve the hardship of this dreaded condition by passing it on to others. You see, victims of this disease are able to communicate with each other, thus lessening the degree of social isolation that naturally

accompanies Profit Maximization.

I would suggest that you yourself campaign to have a similar organization created to help you and other sufferers of Latin Maximization cope with your problem. You might want to call you group the Institution for a Cure of the Latin Expression Repetition (I.C.O.T.L.E.R.). I'd be willing to join your group *ab initio*.

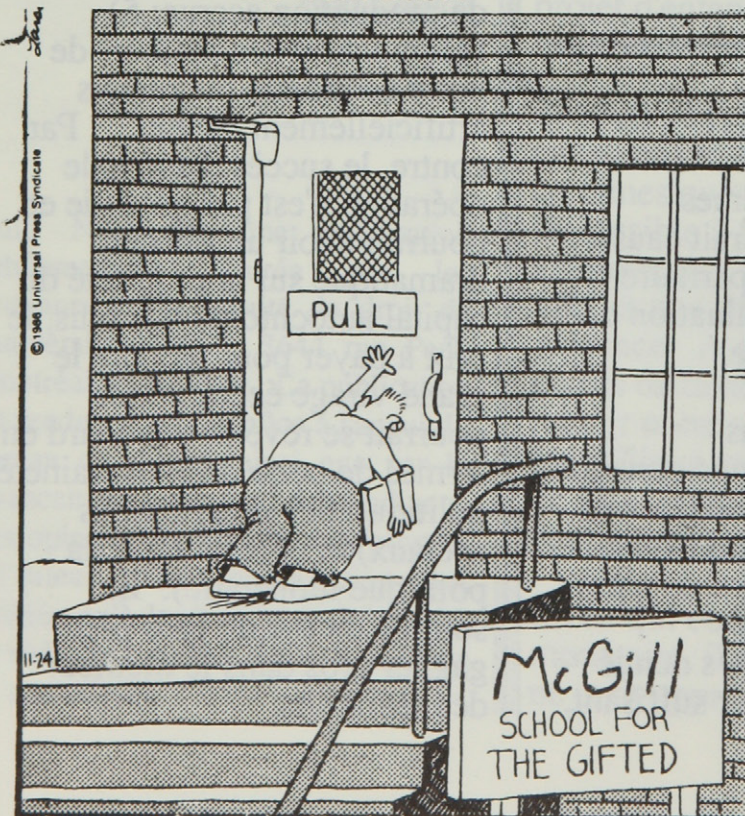
Personal to Abby,

Those penmanship (womanship?) lessons seems to be paying off. One question though, is it considered bad form for advice columnists to double space? These old eyes ain't as good as they used to be.

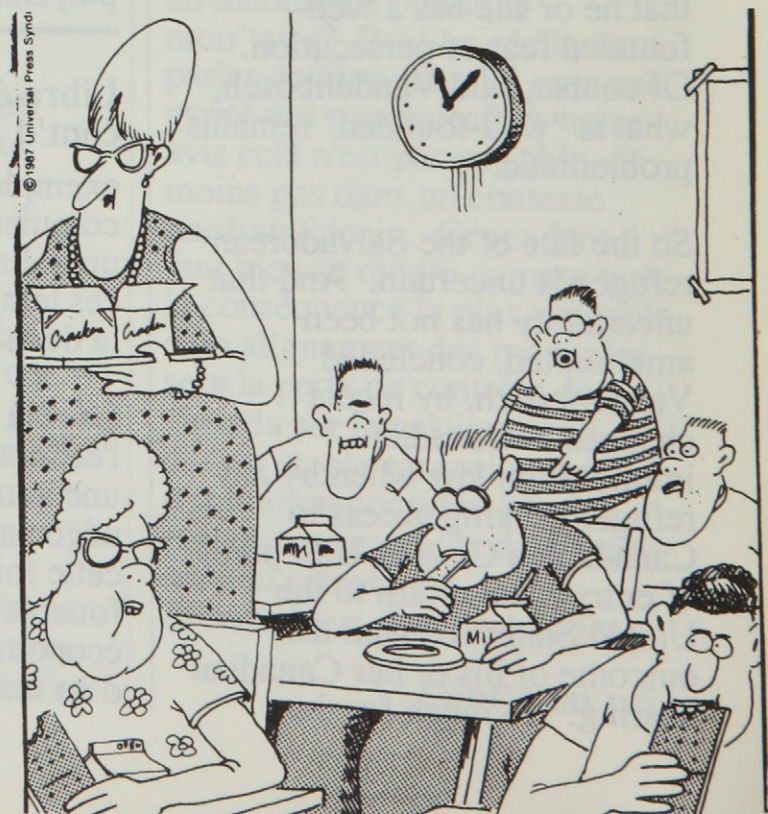
A DAY IN THE LIFE OF A MCGILL LAW STUDENT

Did you ever:

Have trouble getting through the front door?



Have trouble concentrating in class?



Allmand on Global Action

by Terry Pether

There have been sixty-six wars on one part of the globe or another since the Second World War ended in 1945. Nineteen million people have died as a result and less than half of them were soldiers. Still, the world spends \$800 billion each year on armaments. The superpowers alone possess fifty thousand nuclear weapons between them, four tons of TNT worth of explosive power for every man, woman and child alive. To feed, house, educate and provide basic healthcare to all of these people would only cost \$18.5 billion a year.

This alarming state of affairs led world federalist groups from various countries to unite in the 1970s into what has since become a group of Parliamentarians for Global Action. The McGill International Law Society and Lawyers for Social Responsibility invited one of the group's vice-presidents to speak in the law school last Tuesday. The Honourable Warren Allmand, M.P. told students of his group's role as a "catalyst to promote constructive change in the international system." Parliamentarians for Global Action is, he said, a network of six hundred parliamentarians with varying political philosophies from thirty countries that allow opposition parties. Their broad objectives are disarmament, development and reform of international institutions.

With respect to disarmament, Parliamentarians for Global Action has, for example, mobilized its members to solicit more signatories to the U.N. Non-Proliferation Treaty. Their meetings to that end with the U.S.S.R. and the United States failed to persuade the superpowers. But that effort caused middle powers from five continents to exert enough effective pressure for the Soviet Union to declare a moratorium on nuclear weapons testing which lasted until recently. Even now, representatives from that same group of India, Argentina, Tanzania, Mexico, Greece and Sweden are urging the superpowers to act on proposals tabled in Iceland and Geneva. Parliamentarians for Global Action, meanwhile, is pushing in the U.N. for a resolution for an amendment conference to change the existing limited Test Ban Treaty to a comprehensive test ban treaty.

Regarding development, one of Parliamentarians for Global Action's tactics is to have its members submit resolutions in their home legislatures for foreign aid for both immediate

relief and longterm educational assistance in agricultural sectors. Allmand pointed out the problems with this approach by using the example with which he is most familiar: it's hard to get a powerful majority inside when such a government, as that in the House of Commons, is full of "small 'c'" conservatives and not "progressive" conservatives.

But Parliamentarians for Global Action presses on, attempting to effect changes in the world order. When the superpowers possess the capacity to kill 800 million people in half a day, it is more important now than ever, said Allmand, that substitutes to war be found for dispute resolution. Allmand's group would like to see a strengthening of existing international institutions such as the World Court and the U.N. If he didn't already know so, the number of difficult questions that followed his presentation showed Allmand that this task and others proposed by his group will not be easy ones for Parliamentarians for Global Action.

ELLEN ORNSTEIN

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JOURNAL SKIRMISH ENDS HAPPILY

Would you find out from the Law Journal people why I have received no copies after Vol. 31, #1 and ask them to forward the same?

Lyle Carlstrom
Edmonton

The official line was that "the hand-out office is open two hours a day, five days a week for students to pick up their journals" and thus the Quid Probe Quo had been met. Sensitive to the dire predicament of our reader, an

informal collection was immediately taken up to pay for the postage and handling of those wayward journals, proving once and for all that the McGill Law Journal is not just another heartless bunch of introverted misfits.

CRUSTACEAN DEBACLE UNSETTLED

I was driven by an irrespressible inner urge to seek friendship and a comic book ad to sent away for a troupe of delightful Sea Monkeys. Through an inexplicable mix-up, and much to my chagrin, six weeks later I received a

capsule of brine shrimp.

These miniscule and completely humourless creatures are an unacceptable substitute. Is this how they do business in Canada?

Mats Naslund
Dollard-des-Ormeaux

Alas the Quid Probe cannot work miracles. The fruitless results of our follow-up on this particular mail-order company curiously coincided with Tom Friedland's last known address. A second informal collection at the Law Journal Office proved unsuccessful.

APARTHEID

AND THE LAW:
REPORT FROM SOUTH AFRICA



Morris Manning, Q.C.

Toronto human rights lawyer who recently led a fact-finding mission to South Africa

Halton Cheadle

South African human rights lawyer - and visiting fellow at Yale - who has successfully challenged the regime's emergency regulations and defended treason trialists in South African Courts

McGill International

Law Society

Friday March 27 1987

1:00 pm

Room 203

Faculty of Law

3644 Peel St